

REMARKS

Applicants have amended their claims herein to better clarify their invention. Claims 1, 5, 9, 12, 15, and 18, are amended herein to recite a storage controller comprising a first cluster and a second cluster, wherein each cluster comprises an installation directory. Support can be found in Paragraph [0030] which reads, in pertinent part, "The LIC software is copied from a software source . . . to a specified installation directory on each cluster's hard drive." Further support can be found in Paragraph [0040] which reads, in pertinent part, "The LIC software is copied from a software source . . . to a specified installation directory on each cluster's hard drive."

Claims 1, 5, 9, 12, 15, and 18, are further amended herein to recite a storage controller comprising a first cluster and a second cluster, wherein each cluster comprises a primary boot drive and a backup drive. Support can be found in Paragraph [0030] which reads, in pertinent part, "The LIC software is installed to both cluster's alternate (backup) drives . . . These commands apply the LIC software only to the backup drives and not to the primary boot drives." Further support can be found in Paragraph [0040] which reads, in pertinent part, "The LIC software is installed to both cluster's alternate (backup) drives . . . These commands apply the LIC software only to the backup drives and not to the primary boot drives."

Claims 1, 5, 9, 12, 15, and 18, are further amended herein to recite copying a Licensed Internal Code update to the installation directory of each cluster. Support can be found in Paragraphs [0030] and [0040]. Claims 1, 5, 9, 12, 15, and 18, are further amended herein to recite installing the Licensed Internal Code update each cluster's backup drive but not on each cluster's primary boot drive. Support can be found in Paragraphs [0030] and [0040].

Claims 2, 5, 10, 12, 15, and 18, are amended herein to recite rebooting the first cluster using a first cluster backup drive. Support can be found in Paragraph [0035] which reads, in pertinent part, "When cluster 1 returns to operation after the reboot it is now running on what was previously the backup drive which has the new installation of the LIC software." Further support can be found in Paragraph [0042] which reads in pertinent part "When cluster 1 returns to operation of the reboot it is running on the backup drive which has the new LIC code installed on it." Claims 2, 5, 10, 12, 15, and 18, are amended herein to recite rebooting the second cluster using a second cluster backup drive. Support can be found in Paragraph [0032] which reads, in pertinent part, "When cluster 2 returns to operation after the reboot it is now running on what was previously the backup drive which has the new installation of the LIC software."

No new matter has been entered. Reexamination and reconsideration of the application, as amended, is respectfully requested.

Claims 1, 5, 9, 12, 15, and 18, stand objected to because of the recitation of the acronym "LIC." Claims 1, 5, 9, 12, 15, and 18, are amended herein to cure these informalities.

Claims 2, 5-8, 10, 12-14, 16, 18-20, stand rejected under 35 USC 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applications regard as the invention. Claims 2, 5-8, 10, 12-14, 16, and 18-20, are amended herein to cure these rejections.

Claims 9-14 stand rejected under 35 USC 101 as being directed to non-statutory matter. Claims 9, 10, 12, and 13, are amended herein to recite the cooperation of certain hardware structures and the recited method.

Claims 1, 3-4, 9, 15, 17, stand rejected under 35 USC 102(a) as being anticipated by SGI_TP.

Claims 2, 5-8, 10-14, 16, and 18-20 stand rejected under 35 USC 103(a) as being unpatentable over SGI_TP in view of Shirasawa et al. (U.S. Pat. No. 7,032,218).

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of Cal.*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed.Cir. 1987); MPEP 2131. Moreover, "[t]he identical invention must be shown in as complete detail as is contained in the . . . claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed.Cir. 1989).

SGI_TP nowhere teaches use of a storage controller comprising two clusters, wherein each of those two clusters comprises an installation directory, a primary boot drive, and a backup drive, as recited in claims 1, 9, and 15, as amended herein. Moreover, SGI_TP nowhere teaches a method wherein a Licensed Internal Code update is copied to an installation directory in each of two clusters disposed in a storage controller, and wherein that Licensed Internal Code is installed in a backup drive in each cluster, and wherein that Licensed Internal Code update is not installed in the primary boot drive disposed in each of the clusters, as recited in claims 1, 9, and 15, as amended herein.

This being the case, Applicants respectfully submit that claims 1, 9, and 15, as amended herein, are not anticipated by SGI_TP. Claim 3 depends from claim 1. Under 35 U.S.C. § 112, fourth paragraph, "a claim in dependent form shall be construed to incorporate by reference all the limitations of the claim to which it refers." Therefore, claim 3 includes all the elements of

claim 1. This being the case, Applicants respectfully further submit that claim 3, as amended herein, is not anticipated by SGI_TP.

“To establish prima facie obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art.” MPEP 2143.03; *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974). Neither SGI_TP, nor Shirasawa et al., singly or in combination, teach or suggest use of a storage controller comprising two clusters, wherein each of those two clusters comprises an installation directory, a primary boot drive, and a backup drive, as recited in claims 1, 5, 9, 12, 15, and 18, as amended herein. Moreover, neither SGI_TP, nor Shirasawa et al., singly or in combination, teach or suggest a method wherein a Licensed Internal Code update is copied to an installation directory in each of two clusters disposed in a storage controller, and wherein that Licensed Internal Code is installed in a backup drive in each cluster, and wherein that Licensed Internal Code update is not installed in the primary boot drive disposed in each of the clusters, as recited in claims 1, 5, 9, 12, 15, and 18, as amended herein.

“If an independent claim is nonobvious under 35 U.S.C. 103, then any claim depending therefrom is nonobvious.” MPEP 2143.03; *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed.Cir. 1988). Claim 2, as amended herein, depends from claim 1, as amended herein. Under 35 U.S.C. § 112, fourth paragraph, “a claim in dependent form shall be construed to incorporate by reference all the limitations of the claim to which it refers.” This being the case, Applicants respectfully submit that claim 2, as amended herein, is patentable over the combined teachings of SGI_TP and Shirasawa et al.

Claims 6 and 8, as amended herein, depend from claim 5, as amended herein. Under 35

U.S.C. § 112, fourth paragraph, "a claim in dependent form shall be construed to incorporate by reference all the limitations of the claim to which it refers." This being the case, Applicants respectfully submit that claims 6 and 8, as amended herein, are patentable over the combined teachings of SGI_TP and Shirasawa et al.

Claim 10, as amended herein, depends from claim 9, as amended herein. Under 35 U.S.C. § 112, fourth paragraph, "a claim in dependent form shall be construed to incorporate by reference all the limitations of the claim to which it refers." This being the case, Applicants respectfully submit that claim 9, as amended herein, is patentable over the combined teachings of SGI_TP and Shirasawa et al.

Claim 13, as amended herein, depends from claim 12, as amended herein. Under 35 U.S.C. § 112, fourth paragraph, "a claim in dependent form shall be construed to incorporate by reference all the limitations of the claim to which it refers." This being the case, Applicants respectfully submit that claim 13, as amended herein, is patentable over the combined teachings of SGI_TP and Shirasawa et al.

Claim 16, as amended herein, depends from claim 15, as amended herein. Under 35 U.S.C. § 112, fourth paragraph, "a claim in dependent form shall be construed to incorporate by reference all the limitations of the claim to which it refers." This being the case, Applicants respectfully submit that claim 16, as amended herein, is patentable over the combined teachings of SGI_TP and Shirasawa et al.

Claim 19, as amended herein, depends from claim 18, as amended herein. Under 35 U.S.C. § 112, fourth paragraph, "a claim in dependent form shall be construed to incorporate by reference all the limitations of the claim to which it refers." This being the case, Applicants

respectfully submit that claim 19, as amended herein, is patentable over the combined teachings of SGI_TP and Shirasawa et al.

Having dealt with all of the outstanding objections and/or rejections of the claims, Applicants submit that the application as amended is in condition for allowance, and an allowance at an early date is respectfully solicited. In the event there are any fee deficiencies or additional fees are payable, please charge them, or credit an overpayment, to our Deposit Account No. 502262.

Respectfully submitted,



Dale F. Regelman, Ph.D.

Attorney for Applicants

Reg. No. 45,625

CERTIFICATE OF ELECTRONIC FILING

I hereby certify that on this 27th day of December, 2006, the AMENDMENT A is being filed via the Web Enabled Patent Filing System (EFT-WEB).

By 

LAW OFFICE OF
DALE F. REGELMAN, P.C.
4231 S. Fremont Street
Tucson, Arizona 85714

TEL 520-741-7836
FAX 520-746-9114